

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

STONE W. AULT,

Petitioner,

v.

**Civil Action No. 2:07cv88
(Judge Maxwell)**

TERESA WAID, Warden,

Respondents.

**ORDER GRANTING IN FORMA PAUPERIS STATUS BUT
REQUIRING PETITIONER TO PAY THE \$5.00 FILING FEE**

On October 25, 2007, the *pro se* petitioner initiated this case in the United States District Court for the Southern District of West Virginia by filing a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody. Because the petitioner's conviction and sentence were imposed in the Circuit Court of Grant County, the case was transferred to this Court on November 1, 2007. This case is before the undersigned on the petitioner's Motion for Leave to Proceed In Forma Paupers and Prisoner Trust Account Report with attached ledger sheets.

All litigants are required to pay the costs and fees associated with civil lawsuits unless their financial condition warrants a grant of *in forma pauperis* status pursuant to 28 U.S.C. § 1915. Nonetheless, if a habeas petitioner submits a certified copy of the trust fund statement for the six-month period immediately preceding the request, the Court may consider a request to proceed as a pauper. In his application, the petitioner asserts that he is not employed and that he receives no financial support from outside sources. However, although the ledger sheets from the petitioner's inmate account confirm that he is not employed, those same ledger sheets also show that the petitioner does in fact receive money from outside sources on a regular and consistent basis. In fact,

the petitioner's ledger sheets reveal that on average, the petitioner receives \$100 a month from outside sources.

Accordingly, although the Court finds that the petitioner is a pauper and **GRANTS** his motion to proceed *in forma pauperis* (dckt. 1), the Court also finds that the petitioner receives sufficient funds to pay the required filing fee. Therefore, the petitioner will be required to pay the \$5.00 filing fee within **thirty (30) days** from the date of this Order. The failure to do so could result in the dismissal of this case without further notice.

IT IS SO ORDERED.

The Clerk is directed to mail a copy of this Order to the *pro se* petitioner.

DATED: November 15, 2007.

/s *John S. Kaul*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE